IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1961

No. 78

CHARLES TOWNSEND,

Petitioner,

vs.

FRANK G. SAIN, Sheriff of Cook County; and JACK JOHNSON, Warden of the Cook County Jail,

Respondent.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

BRIEF FOR PETITIONER

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BRIEF FOR PETITIONER

CHARLES TOWNSEND, petitioner, is under a sentence of death imposed for the alleged crime of murder in Cook County, Illinois. After exhaustion of all remedies under Illinois law, petitioner filed an application for writ of habeas corpus in the United States District Court for the Northern District of Illinois. The petition was denied; and on appeal, denial was affirmed by the Court of Appeals for the Seventh Circuit.

Opinion Below

The opinion of the Court of Appeals is reported in 276 F. 2d 324.

Jurisdiction

The judgment of the Court of Appeals was entered April 7, 1960. On July 5, 1960, by order of Mr. Justice Frankfurter, the time within which to file a petition for writ of certiorari was extended to July 13, 1960. On July 13, 1960, by order of Mr. Justice Black, the time within which to file the petition for a writ of certiorari was further extended to July 14, 1960. The petition for writ of certiorari was filed July 14, 1960 and was granted April 3, 1961. The jurisdiction of this court rests on 28 U.S.C. 1254 (1).

Questions Presented

1. Whether the opinion of the Court of Appeals for the Seventh Circuit holding that " . . . On habeas corpus, the district court's inquiry is limited to a study of the *undisputed* portions of the record . . . " is in conflict with the opinion of the Court of Appeals for the Second Circuit in *Rogers* v. *Richmond*, 252 F. 2d 807.

2. Whether the Court of Appeals erred in holding that in the habeas corpus proceedings in the district court " . . . evidence was insufficient to support charge . . . " and that " . . . petitioner has burden of sustaining his charge that his constitutional rights were violated in procuring his confession . . . ," when in fact, the district court denied petitioner a hearing and opportunity to produce any evidence in support of the allegations contained in his application for a writ of habeas corpus.

3. Whether petitioner's application for a writ of habeas corpus relief under these circumstances.
answer that they admit " . . . the factual allegations of the petition well pleaded . . . " show that in the state court criminal trial petitioner was deprived of the due process of law in violation of the 14th Amendment.

4. Whether the record in this habeas corpus proceeding shows that the Illinois courts misconceived petitioner's federal constitutional rights when there was admitted in evidence against petitioner a confession taken from him while he was under the sedated influence of a narcotic drug injected into petitioner by a police physician; and whether the Court of Appeals erred in affirming denial of habeas corpus in the district court, together with respondents'

5. Whether, in view of the fact that this court has never reviewed a case involving the admissibility under the 14th Amendment of a drug-induced confession, petitioner presents to this court an occasion to pass on an important federal question which transcends the constitutional rights of petitioner here, and will affect the administration of criminal justice in the state courts of the Nation.

Statutes Involved

Chap. 38. Ill. Rev. Stat. (1953).

HOMICIDE

§ 358. Murder

Murder is the unlawful killing of a human being, in the peace of the people, with malice aforethought, either expressed or implied. The unlawful killing may be perpetrated by poisoning, striking, starving, drowning, stabbing, shooting, or by any other of the various forms or means by

which human nature may be overcome, and death thereby occasioned. Express malice is that deliberate intention unlawfully to take away the life of a fellow creature, which is manifested by external circumstances capable of proof. Malice shall be implied when no considerable provocation appears, or when all the circumstances of the killing show an abandoned and malignant heart.

§ 360. Murder—Punishment

Whoever is guilty of murder, shall suffer the punishment of death, or imprisonment in the penitentiary for his natural life, or for a term not less than fourteen years. If the accused is found guilty by jury, they shall fix the punishment by their verdict; upon a plea of guilty, the punishment shall be fixed by the court.

"§ 826. Proceeding to determine whether constitutional rights were denied—Petition—Limitations

Any person imprisoned in the penitentiary who asserts that in the proceedings which resulted in his conviction there was a substantial denial of his rights under the Constitution of the United States or of the State of Illinois or both may institute a proceeding under this Act. The proceeding shall be commenced by filing with the clerk of the court in which the conviction took place a petition (together with a copy thereof) verified by affidavit. Petitioner shall also serve another copy upon the state's attorney by any of the methods provided in Rule 7 of the Supreme Court. The clerk shall docket the petition upon his receipt thereof and bring the same promptly to the attention of the court. No proceeding under this Act shall be commenced more than five years after rendition of final judgment, or more than three years after the effective date of this act, whichever is later, unless the petitioner alleges

facts showing that the delay was not due to his culpable negligence."

Statement

(a) *Introduction*

Procedurally, this is a habeas corpus petition filed after exhaustion of state remedies.[1] Factually, this is a murder case in which Charles Townsend, a 19 year old mental defective was sentenced to death in an Illinois court. The crucial events began early New Year's Day, 1954 in a dark Chicago street.

(b) *The substantive facts*

On January 1, 1954, Charles Townsend was a 19 year old narcotic addict who had used drugs since he was 15 years of age. During the late evening hours of New Year's Eve he had taken an injection of narcotics. As shown by later examinations, Townsend had a low intelligence quotient of 63. He was classified as possessing " . . . a border line intelligence . . . "; and the diagnosis in his case " . . . was character disorder, with drug addiction . . . " (Rec. B, 92; Rec. C, 803; Rec. C, 785).[2] According to a prosecution wit-

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[1] In its opinion, the court below said " . . . both in the review of petitioner's conviction by writ of error, 11 Ill. 2d 30, 141 NE 2d 729, and in its order entered in the post-conviction proceeding, the Illinois Supreme Court considered and rejected the constitutional attacks now made by petitioner. He has exhausted in the state courts remedies afforded to him by Illinois . . . " *United States of America* ex rel *Townsend* v. *Sain*, 276 F 2d 324, 238-329.

[2] The Record in this case consists of seven separate parts. These are the six designated portions in the court below, and the certified transcript of the record in the Court of Appeals.

In the court below, petitioner designated six portions "A" to "F". "A" is the certified transcript of the record in the United States District Court for the Northern District of Illinois, De-

ness (Rec. D, 1026-1031), Charles Townsend was a " . . . near mental defective . . . ", and although " . . . moron is a classification that has been more or less dropped . . . " from psychological terminology, petitioner, " . . . would be just a little above moron, then, using old terminology . . . " (Rec. D, 1031).

A few hours before New Year's Day, 1954, a Chicago police officer had a conversation with a man named Vernon Campbell in the Second District station (Rec. C, 644). Campbell, a convicted robber then on probation, had been in police custody several days before this conversation (Rec. C, 768-769, 771). A short time later, Campbell, with four

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cember Term 1958. This portion consists of 44 pages of the Clerk's mandatory record and a Report of Proceeding consisting of 70 pages.

"B" is Volume I of the proceedings in the Criminal Court of Cook County in which petitioner was tried, convicted and sentenced to death. "B" consists of 134 pages of the Clerk's mandatory record, or what under Illinois practice is called Common Law Record, and 493 pages of the Record of Proceedings.

"C" is Volume II of the same state court proceedings, and it consists of pages 494 to 974.

"D" is Volume III of the same state court proceedings, and it consists of pages 975 to 1335.

"E" is the certified transcript of the proceedings in the Criminal Court of Cook County under the Illinois Post-Conviction Act. This consists of 64 pages of the Clerk's mandatory record and a Report of Proceedings of 29 pages.

"F" is the certified transcript of the record of the United States District Court for the Northern District of Illinois which on appeal to the court below was transmitted by the clerk to the United States Court of Appeals for the Seventh Circuit. This transcript consists of 156 pages of the Clerk's mandatory record, and a Report of Proceedings of 83 pages.

The system which is adopted here for references to the Record is as follows:

Record references are only to the Reports of Proceedings; therefore, these are made thus: (Rec. A. 10), meaning page 10 in Report of Proceedings included in "A".

police officers, went to the intersection of 35th Street and Indiana Avenue in Chicago where they saw Charles Townsend in the company of another man (Rec. C, 644-649). The officers arrested both Townsend and his companion. At approximately 2:25 AM on January 1, 1954, both men were taken to the Second District police station in the City of Chicago (Rec. C, 647-649; D, 1037-1038).

Upon arrival, Townsend was processed and later subjected to a twenty to thirty minute period of interrogation (Rec. C, 647-649). One of the officers, Cagney, questioned Townsend " . . . about a robbery and murder that happened on 38th and Michigan. . . . he talked to me about half an hour about that. I told him I didn't know anything about this robbery and murder. . . . " (Rec. B, 96). A short time later, Townsend was transported from that police station to the Nineteenth District where he arrived at approximately 5:00 AM (Rec. B, 96-97; 258-260; C, 647-649). Townsend remained at the Nineteenth District until approximately 8:30 PM that evening (Rec. B, 100-101). He was then returned to the Second District where he was immediately turned over to the four officers that arrested him early in the morning of that day (Rec. B, 101-102; C, 816-820).

A short time later, the arresting officers began questioning Townsend (Rec. B, 343-351; D, 1038-1040). A "show-up" was conducted with three other prisoners in the line-up, including Townsend (Rec. D, 1040). One of the men who viewed the show-up was an insurance man named Gus Anagnost (Rec. C, 685-687) who was at the police station to identify the man who had robbed him (Rec. C, 686; See: Respondents' Additional Answer to Petition for Habeas Corpus, page 4). Anagnost did not identify Charles Townsend; rather, as his assailant he picked out another man " . . . who was supposed to have held him up with a

brick . . . " (Rec. C, 686; D, 1041; See: Respondents' Suggestions in Opposition, pages 9 and 18; See: Respondents' Additional Answer to Petition for Habeas Corpus, page 4). Because of this identification by Anagnost, there was an altercation between Townsend and another prisoner in the show-up (Rec. B, 426-430).

An Assistant State's Attorney, Rudolph L. Janega (Rec. C, 712-717), arrived at the Second District station between 9:15 and 9:30 PM. Five minutes later (Rec. C, 719), he began questioning Townsend. Townsend " . . . said to me that he wanted a doctor. Yes, I noticed his condition at that time. He was holding his stomach and he complained. He said he wanted to talk to a doctor, to see a doctor. . . . I noticed that he was very nervous and he was bent over . . . his voice was very low. He told me there that he didn't want to talk to anybody. He wanted a doctor . . . " (Rec. C, 718-722).

One of the officers, Cagney, learned from Townsend, at the time of the arrest, that he was a narcotic addict (Rec. B, 357-359). Townsend told Officer Cagney in the presence of the Assistant State's Attorney that he had pains in his stomach (Rec. B, 356-359). Townsend said " . . . he didn't want to talk at all . . . " (Rec. B, 359-360). In the presence of Officer Cagney, Townsend, once in a while leaned over. Officer Cagney " . . . didn't count the times he bent over and grabbed his stomach. I wouldn't be able to say how many times. . . . it could have been 50 times. . . . I know he had pains in his stomach . . ." Because of the condition Townsend displayed, the Assistant State's Attorney " . . . told me to get a doctor for him . . . " (Rec. B, 360). Because Townsend complained of having chills and stomach pains (Rec. C, 829-830), Officer Cagney told Townsend that " . . . he was going to call a doctor, a friend of his, and have him come down and do something for me . . . " (Rec. C, 831).

Officer Cagney called the doctor. " . . . I had a conversation with the doctor on the telephone. Yes, he asked me what was wrong with the prisoner. I told him the man was sick and he wants a doctor . . . " (Rec. B, 358-359). A short time later, a Dr. Charles Mansfield came to the police station to administer to Townsend (Rec. C, 832-834).

Dr. Mansfield was " . . . associated with the City of Chicago as a police physician . . . . " (Rec. B, 212-213). His examination of Charles Townsend showed that " . . . he was a drug addict, suffering from withdrawal . . . " (Rec. B, 213-214). By "withdrawal" the doctor meant that "there was a reaction throughout his body and physical makeup that created an illness because he needed some drugs, narcotics . . . " (Rec. B, 214). Throughout the time that Dr. Mansfield examined Charles Townsend, Officer Cagney who had called the doctor at Townsend's request was in the room (Rec. B, 214). In fact, Officer Cagney assisted the doctor in administering to Townsend (Rec. B, 214-216). It was Officer Cagney who identified Townsend as the man he wanted the doctor to see (Rec. B, 224). In the presence of Officer Cagney, Dr. Mansfield took a glass of water which Officer Cagney obtained for him and " . . . I put a sodium chloride tablet in it, dissolved it, rinsed off my needle and syringe. Then I withdrew some normal saline solution from into my syringe and I put a couple of small tablets into the syringe with the lour removed—that is the plunger—and I dissolved these tablets. So one piece of the tablet was sodium phenobarbital, well, one-eighth grain; then a piece of the tablet was about, oh, less than one-half hyoscine. Then I dissolved these two and I prepared to inject . . . " (Rec. B, 214-215).

"The phenobarbital, I found in my experience reacts very well combined with the other, whenever you don't want to put a person to sleep, but you want to quiet them; more of a psychic effect than reality . . . " (Rec. B, 215).

"By 'psychic effect' I mean pacify; it has an effect on the mind. . . . " (Rec. B, 216).

After the drug injection, Dr. Mansfield left. Assistant State's Attorney Janega returned immediately into the room and noticed that Townsend's " . . . voice was strong. Yes, I noticed that then. . . . he was more responsive, yes. Although Townsend was " . . . not very responsive at first he was complaining at first. Yes, all he wanted was a doctor at first . . . " (Rec. D, 724-725). Townsend then " . . . told me he felt better (Rec. D, 723-727).

"About fifty minutes had elapsed between the time that Cagney had closed that door with that glass of water to the time they started to question the defendant . . . (Rec. B, 301-303). As the doctor was leaving they brought Townsend through the door into a larger room . . . " (Rec. B, 299-301). Townsend then " . . . was sitting erect when he answered the questions . . . " (Rec. B, 302).

The Assistant State's Attorney then began taking confessions from Townsend:

At 10:40 PM Townsend gave a statement " . . . regarding the assault on Gus Anagnost . . . " (See: Respondents' Additional Answer to Petition for Habeas Corpus, page 5). Gus Anagnost did not identify Charles Townsend as the man who had assaulted him. " . . . he identified a man who was supposed to have held him up with a brick. No, it wasn't the defendant that he identified . . . " (Rec. B, 1041).

At 10:45 PM Charles Townsend gave "the statement regarding the death of Johnny Stinson . . . " Charles Townsend was later indicted for the murder of Johnny Stinson; and the statement taken by the Assistant State's Attorney was admitted in evidence. The case was tried before a jury, and Townsend was " . . . adjudged not guilty and dis-

charged . . . " (Respondents' Additional Answer to Petition for Habeas Corpus, page 2).

At 11:00 PM Charles Townsend gave " . . . the statement relative to the death of Thomas Johnson . . . " Johnson's death was the subject of a Coroner's Inquest which revealed that when he was found injured on December 2, 1953, Johnson said that " . . . it was just one of those things . . . it was just a little drinking. Just an accident . . . "[3]

Townsend was later indicted for the murder of Thomas Johnson; but on April 7, 1955, at the prosecution's request, that indictment was "stricken with leave to reinstate . . . " (See: Respondents' Additional Answer to Petition for Habeas Corpus, pages 5 and 6).

At 11:15 P.M. Charles Townsend gave " . . . the statement regarding the death of Jack Boone. . . . " Eleven months later Townsend was tried for the murder of Jack Boone. On April 7, 1955, in accord with the jury's verdict, he was sentenced to death (Rec. D, 1287; 1319-1322).

During this same period of interrogation, on January 1, 1954, inquiries were made of Townsend concerning the death of a man named Willie Thompson (See: Respondents' Additional Answer to Petition for Habeas Corpus, pages 1 and 3). Townsend denied having any knowledge of Thompson's death. Inquest Minutes of the Coroner's Hearing of January 4, 1954, at page 22, contain the following colloquy.

> "The Deputy: Well, as I said, please would you let me up for a minute.
>
> Officer Cagney: Well, we can go out and get these guys. They have their patterns. Why shouldn't we be given credit for these clean-ups . . . "

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[3] Respondents have furnished the Court with copies of the Coroner's Inquest Minutes in this and in the other murder cases concerning which Charles Townsend gave statements on January 1, 1954.

Townsend " . . . could not recall the details of the assault which led to the death of Thompson . . . "; therefore, " . . . Janega did not take a statement from him. . . . " (See: Respondents' Additional Answer to Petition for Habeas Corpus, page 3).

Townsend was later indicted for the murder of Willie Thompson. On April 7, 1955, the day that Townsend was sentenced to death, the state, on its own motion, asked the court to strike the indictment with leave to reinstate (See: Respondents' Additional Answer to Petition for Habeas Corpus, pages 5 and 6).

After all of the statements had been taken at about 11:30 P.M., on January 1, 1954, Townsend was returned to a cell (Rec. B, 275). There he remained until approximately 1:00 P.M. on January 2nd, when two officers (Rec. B, 392-395) took him to the offices of the State's Attorney (Rec. B, 455-456). There, Townsend saw the Assistant State's Attorney who had taken the statements the night before (Rec. 455 C, 727-728). The statements had been transcribed into written form (Rec. C, 714-717; 733-736).

After the statements were signed, Townsend was returned to the cell in the Second District police station (Rec. B, 307-309) where he remained until Sunday, January 3rd when he complained to Officer Cagney that " . . . he didn't feel good. He said he would like to see the doctor . . . " (Rec. B, 388). Dr. Mansfield was called to administer to Townsend (Rec. B, 221); and he said, "Well, I'm going to give you something else that will help you . . . " (Rec. B, 221).

The following day, Monday, January 4, 1954, Charles Townsend was taken to a multiple inquest hearing before the Coroner of Cook County. There, he was subjected to additional interrogation concerning the deaths of Jack

Boone, Thomas L. Johnson, and Johnny Stinson (See: Respondents' Additional Answer to Petition for Habeas Corpus, pages 1 to 4). Thereafter, on the same day, Townsend was delivered to the custody of the Sheriff of Cook County and lodged in the Cook County Jail (Rec. B, 147-148).

(c) *How the federal constitutional questions were raised and preserved for review in the State Courts.*

Based on the statements taken by Assistant State's Attorney Janega on January 1, 1954, Townsend was indicted for the murder of Jack Boone, Thomas L. Johnson, Johnny Stinson, and Willie Thompson. In addition, he was indicted for the robbery of Gus Anagnost and of a man named Joseph Martin (See: Respondents' Additional Answer to Petition for Habeas Corpus, pages 5 and 6).

On March 24, 1954, Townsend was tried for the murder of Johnny Stinson. His motion to suppress the confession was overruled; and the statement taken by the Assistant State's Attorney on January 1, 1954, was admitted in evidence before a jury. Townsend was found not guilty and discharged (See: Respondents' Additional Answer to Petition for Habeas Corpus, page 2).

On February 7, 1955, Townsend was brought to trial for the murder of Jack Boone (Rec. B, 88). A motion to suppress the statement of January 1, 1954 was made; and evidence on the motion was heard by the trial court (Rec. B, 91-494; C, 495-587). The four arresting officers testified (Rec. B, 280, 332, 416, 465). In addition, the prosecution called nine other police officers, all of whom had some part in Townsend's incarceration (Rec. B, 251, 258, 262, 265, 268, 270, 272, 274, 392). Two employees of the police department also testified (Rec. B, 401, 410). The Assistant State's Attorney and the official court reporter were called (Rec. B, 438, 457). Dr. Clarence Mansfield who gave the drug in-

jection appeared for the prosecution (Rec. B, 209). In support to suppress Charles Townsend testified (Rec. B, 91). In his testimony, Dr. Mansfield described the drug he used on January 1, 1954 as "hyoscine" (Rec. B, 215). The motion to suppress the statement was overruled by the trial court (Rec. C, 586-587). The statement was admitted in evidence and read to the jury (Rec. C, 739-743). Townsend was convicted; and on April 7, 1955 death sentence was entered on the verdict of the jury (Rec. B, 1319).

Pursuant to Illinois law Townsend's conviction was reviewed by the Supreme Court of Illinois. In an opinion with two justices dissenting, the court affirmed. The court specifically passed on Townsend's federal constitutional claims arising out of his contention that the statement of January 1, 1954 was involuntary. *People* v. *Townsend*, 11 Ill. 2d 30, 141 NE 2d 129. Petition for certiorari was denied by this Court. *Townsend* v. *Illinois*, 355 US 850, 78 S.Ct. 76, Rehearing denied, 355 US 886, 78 S.Ct. 152.

Thereafter, pursuant to Illinois law, Townsend filed a petition for post-conviction review of his conviction alleging, in substance, that during the review in the original conviction, his court-appointed appellate counsel learned that the drug which had been described as "hyoscine" by Dr. Mansfield was in fact "scopolamine", a drug commonly known as "the truth serum". Townsend alleged that description of the drug only as "hyoscine" deprived the trial court and the trial jury of vital information concerning the true nature of the drug used by Dr. Mansfield (Rec. E, 1-764); and thus the trial court was misled into finding that the confession was voluntary. The trial court dismissed the petition; and on writ of error, the Supreme Court of Illinois entered an order affirming denial of post-conviction relief. This Court denied certiorari, *Townsend* v. *Illinois*, 358 US 887, 79 S.Ct. 128.

(b) *How federal jurisdiction was invoked.*

Thereafter, Townsend filed in the District Court, a petition for writ of habeas corpus, pursuant to 28 USCA 2241, *et seq.* In this petition, Townsend alleged exhaustion of state remedies and described the use of the drug "hyoscine", also known as "scopolamine" which Dr. Mansfield injected into him just prior to the statement which was used in the state court trial. Townsend alleged that admission in evidence of the statement deprived him of due process in violation of the 14th Amendment. The United States Court of Appeals dismissed the appeal. *United States ex rel Townsend* v. *Sain*, 265 F 2d 660. On petition for writ of certiorari, this Court vacated the Court of Appeals judgment. *Townsend* v. *Sain*, 359 US 64, 79 S.Ct. 655.

On remand to the District Court, respondents submitted to the District Judge Volumes I, II, and III of the state court proceedings in the Criminal Court of Cook County. The District Judge ordered briefs filed by the parties, and took the cause on advisement of the petition habeas corpus, respondents' answer and the state court records. The District Judge proceeded on the theory that he could read the state court records (Rec. F, 135-137), and either dismiss the petition or grant Townsend an opportunity to prove the allegations of his application for habeas corpus. The District Judge dismissed the petition and said ". . . that justice would not be served by ordering a full hearing or by awarding any or all relief sought by the Petitioner . . ." (Rec. F, 136). Townsend appealed to the United States Court of Appeals for the Seventh Circuit. That court affirmed; *United States of America ex rel Townsend* v. *Sain* et al., 276 F 2d 324.

A Summary of the Argument

1. Petitioner rests his case on undisputed facts only. Relying on *Thomas* v. *State of Arizona*, petitioner, in effect, submits a legal issue which discloses that the federal courts below, and certainly the state courts, misconceived petitioner's federal constitutional question.

In sum, petitioner claims that a drug injection was the factor which broke down his will and brought about confessions which he had refused to give. With regard to the pharmacological characteristics of hyoscine or scopolamine, drugs which in police science are known as "the truth serum", petitioner's description of their effects on him is supported by such authorities as Goodman and Gilman, *The Pharmacological Basis of Therapeutics;* Gathercoal and Wirth, *Pharmacognosy; British Pharmacopeia*, and numerous authoritative sources. Hyoscine and scopolamine have the physiological effects which petitioner in his layman's crude way described.

As a consequence, the case made here by petitioner is one showing an involuntary confession which resulted from a drug injection given petitioner by a police doctor while petitioner was in police custody. *Leyra* v. *Denno; Fikes* v. *Alabama; Payne* v. *Arkansas;* and *Blackburn* v. *Alabama* are cases representing applicable constitutional doctrines. This court will make its own determination of the delicate constitutional questions, even though it will not resolve conflict in the evidence. *Thomas* v. *State of Arizona*. This latter function is necessarily imposed on this court by the fact that no less than eight plain errors appear in the opinion of the court below.

For these reasons there must be a reversal of the judgment below with directions that petitioner be granted habeas corpus relief.

2. This Court has never held, nor did it pronounce in *Thomas* v. *State of Arizona*, that " . . . on habeas corpus, the district court's inquiry is limited to a study of the *undisputed* portions of the *record*." This Court has established the procedural doctrine, *Haley* v. *Ohio*, *Watts* v. *State of Indiana*, that when a state court record is reviewed by this court on grant of certiorari, the constitutional issue will be decided on the undisputed portions of the record. *Thomas* v. *State of Arizona*. It is apparent that the court below failed to distinguish between the functions of this court and the duties of district courts as defined and instructively explained in *Brown* v. *Allen* and *Daniels* v. *Allen*.

Further, as if to cap the errors in the judgment below, the Court of Appeals found that petitioner had failed to carry the burden of proof when in fact the district court denied petitioner the opportunity to introduce evidence. This is not only unfair, it is prejudicial error. Therefore, the judgment below cannot stand.

ARGUMENT

From the Undisputed Facts in the State Court Records, and From Allegations of Petitioner's Application for Writ of Habeas Corpus, Together With Respondents' Answer in Which They ". . . Admit the Factual Allegations of the Petition Well Pleaded . . .", It Clearly Appears That in the Illinois Criminal Trial Petitioner Was Denied Due Process of Law in Violation of the 14th Amendment by Admission in Evidence Against Him of a Confession Taken While He Was Under the Sedated Influence of a Drug Injected by a Police Physician; as a Consequence, the Undisputed Facts Show That the Illinois Courts Misconceived Petitioner's Federal Constitutional Rights, and Federal Courts Below Erred in Denial of Habeas Corpus Relief.

In order that this Court's jurisdiction may be focused upon the crucial federal constitutional question, petitioner relies solely on undisputed facts in the state court records, and on matters admitted or conceded in the course of these habeas corpus proceedings. *Thomas* v. *State of Arizona*, 356 US 390; *Haley* v. *State of Ohio*, 232 US 596. Thus we find:

It is not disputed that on January 1, 1954, at about 9:30 P.M., Dr. Clarence Mansfield, a police physician of the Chicago Police Department was called by an arresting police officer to administer to petitioner's illness in the police station.

It is not disputed that Dr. Mansfield examined petitioner, found that he was sick; and Dr. Mansfield decided to inject a solution consisting of phenobarbital and hyoscine.

It is not disputed that hyoscine is scopolamine, a drug which criminal investigators have named the "truth serum".

It is not disputed that before petitioner was given this drug injection by Dr. Mansfield, he was too ill to stand up, he was bending over, holding his stomach because of pain, and indeed, his condition was so serious that the Assistant States Attorney who was questioning him interrupted the interrogation and instructed the principal investigating officer to call a doctor.

It is not disputed that prior to the injection of the drug by Dr. Mansfield, petitioner had made no statement which could have been preserved as evidence against him.

It is not disputed that as soon as Dr. Mansfield left the police station; and significantly, without having told any police officer what he had done, or left any instruction to allow petitioner an opportunity to sleep or rest, petitioner was able to give four written confessions, all in rapid succession.

What event occurred that brought about this amazing transformation in petitioner's ability to confess? Petitioner says it was the drug injection. Therefore, it is important that we understand the pharmacological characteristics of scopolamine and phenobarbital.

An authoritative description of the pharmacological characteristics of hyoscine and phenobarbital is to be found in Goodman and Gilman, *The Pharmacological Basis of Therapeutics*, McMillan, New York (1955), page 541, "The alkaloid scopolamine (hyoscine) is found chiefly in the shrub *Hyoscyamus Niger* (Henbane) and *Scopola Carniolica* . . .". The effects of scopolamine on the human body are described by Goodman and Gilman on Pages 42 and 43 with a chart showing the characteristics of the drug. The authors then go on to say, Page 554:

> "Scopolamine in therapeutic doses normally causes drowsiness, euphoria, amnesia, fatigue, and dreamless sleep. . . . However, therapeutic amounts of scopola-

mine may occasionally produce excitement, restlessness, hallucinations, and delirium. Some, but certainly not all, of these paradoxical reactions may be classed as idiosyncrasy or as due to the administration of scopolamine to individuals with pain; . . . "

Gathercoal & Wirth, *Pharmacognosy,* 3rd Ed. (1956), say that "Scopolamine or hyoscine is an alkaloid obtained from plants from the solanaceae. Scopolamine hydrobromide or hyoscine hydrobromide is the hydrobromide of an alkaloid obtained from plants of the solanceae. It is extremely poisonous. (It) . . . is a powerful hypnotic and causes sleep which resembles natural sleep very closely."

Epitome of the Pharmacopeia of the United States and the National Formulary with Comments, 9th Ed., J. B. Lippincott Company (1951), pages 178-179, says "Scopolamine hydrobromide is extremely poisonous. . . . Used as a somnifacient in motion excitement and mania, but much less than formerly, as a preliminary to anesthesia and 'twilight sleep' in which it is dangerous unless used with great caution, because of its tendency to depress the respiratory center. . . . Uncertain in its action, sometimes producing acute delirium . . . ".

British Pharmacopoeia, The Pharmaceutical Press, London, (1958), pages 316 and 317, define hyoscine hydrobrom as synonymous with scopolamine hydrobromide. W. F. von Oettinger, *Poisoning,* Paul D. Hoeber, Inc., (1952), pages 455-456, describes scopolamine as dangerous because its use brings about absence of accommodation and accompanies the pharmacological reaction with auditory and visual hallucinations accompanied by motor unrest, headaches, vertigo and manic excitement or depression. von Oettinger says " . . . there is maximal mydriasis with complete rigidity of the pupils . . . "

Fein, *Modern Drug Encyclopedia and Therapeutic Index*, 8th Ed., (1960), The Reuben H. Donnelley Corporation, New York, page 1116, describes hyoscine or scopolamine as "a primary depressent of marked sedative and tranquilizing properties, producing drowsiness and dreamless sleep . . ." Fein says that hyoscine or scopolamine is a recognized treatment for the withdrawal symptoms of narcotic or alcoholic addicts.

The United States Pharmacopeia, 16th Revision, (1960), Mack Printing Company, Easton, Pennsylvania, pages 636-637, define hyoscine hydrobromide as synonymous with scopolamine hydrobromide and states their well-known authoritative pharmacological characteristics.

Goodman and Gilman, *The Pharmacological Basis of Therapeutics*, McMillan, New York (1955), pages 124-155, give an authoritative detailed pharmacological analysis of the attributes of phenobarbital. Significantly enough, this authority classified phenobarbital as one of the "hypnotic and sedative drugs." With regard to hyoscine or scopolamine, it is significant that in the chapter dealing with this particular drug, it is classified as an "autonomic blocking agent".

Speaking of scopolamine, the *Encyclopedia Britannica* says "scopolamine or hyoscine is a complex alkaloid closely related to atropine having the chemical formula $C_{17}H_{21}NO_4$. It is a laevorotary to polarized light. The therapeutic dose is 1/200's to 1/100 gram. The chief action of scopolamine is hypnotic, a condition very similar to natural sleep being induced. This usually lasts for six hours and the patient wakes up with an unclouded mind but may complain of thirst and dryness of the mouth and throat. In some cases the stage of excitement, giddiness and incoherent speech may precede that of sleep and it is this uncertainty of action which renders the drug somewhat unreliable. 20

Encyclopedia Britannica, 136, University of Chicago Press (1947).

The Dispensatory of the United States of America, pages 1222-1223, 25th Ed., Lippincott, Philadelphia, (1955), says of this drug that:

> "... in some persons the sleep it produces is attended with the kind of low muttering delirium recalling the mental confusion seen in atropine poisoning; ... many persons are excessively susceptible to scopolamine and toxic symptoms may occur. Such symptoms are often very alarming. There are marked disturbances of intellection ranging from complete disorientation to an active delirium resembling that encountered in atropine poisoning ..."

This was the drug which Dr. Mansfield, the police doctor, injected into petitioner (Rec. B, 213-215). This powerful and potent inhibitor of mental processes. This police doctor, experienced in such matters, *People* v. *Townsend*, 11 Ill. 2d 30, 14 N.E. 2d 729, chose this drug for injection because "it depresses and sedatizes, especially in full doses ..." (Rec. B, 215). "Phenobarbital, I found in my experience works very well combined with the other, whenever you don't want to put a person to sleep, but you want to quiet them; more of a psychic effect than reality ... by 'psychic effect', I mean pacify; it has an effect on the mind. An effect on the mind ...'"

Throughout his testimony (Rec. B, 992-1001), this police doctor repeated and emphasized that the purpose of the injection was to affect the mind of petitioner while he was being subjected to intensive police interrogation.

Historically, scopolamine is an interesting drug. From the dry rhizone of the plant *Scopola carniolica*, Schmidt, a German professor, isolated its principal constituent. The

result was a drug which he named scopolamine after the founder of the plant, Giovanni Antonio Scopoli, a Tyrolean doctor who had developed an avocational interest in the botanical attributes of Carniola, onetime Austrian duchy. Gilbert Geis, *In Scopolamine Veritas*, 50 J. Crim. L., C. & P. S. 347 (1959). Chemical analyses, following Schmidt's work, led to the conclusion that scopolamine was identical with hyoscine, a drug which had been extracted from the plant *hyoscyamus niger* about a decade earlier. Henry, *The Plant Alkaloids*, 84 (1949); Petty, *Narcotic Drug Diseases and Allied Ailments*, 168 (1913).

There is a respectable body of learning concerning scopolamine as a drug, its use in medicine and the attempted use of the drug in crime detection. This body of learning is characterized by authoritative treatises and articles by scholars, medical scientists, sociologists, and students of the law. The pharmacological properties of scopolamine, and its identity with hyoscine have long been common pharmaceutical knowledge. The descriptive phrase "truth serum" was invented by serious-minded medical scientists who understood the pharmaceutical qualities of the drug scopolamine, and of its power on the human mind. *Truth Serum*, 18 Texas St. J. Med. 231 (1922).

In its judgment of affirmance, the Court below said, 276 F 2d 324 at 329:

> "... His counsel's argument is sprinkled with the repeated use of the words 'truth serum'. These glib words have no recognized medical meaning, as Dr. Mansfield's testimony shows, and are evidently borrowed by petitioner from the jargon of science fiction ..."

Ordinarily, Petitioner would attribute this aspersive characterization of his argument as judicial impatience. How-

ever, because the Court below is wrong as well as unkind, Petitioner attaches to his brief an Appendix containing a small portion of the body of learning, legal, sociological, and medical, in which the words "truth serum" are used to aptly describe the drug scopolamine. Therefore, far from having borrowed the words "truth serum" from the jargon of science fiction, Petitioner has adopted an apt and descriptive expression invented by doctors who best understood the power of scopolamine over the human mind. *Truth Serum*, 18 Texas St. J. Med. 231 (1922). It is true that publicity seeking newspaper writers have used and abused the phrase; but the expression was not their invention. Gilbert Geis, *In Scopolamine Veritas*, 50 J. Crim. Law, C. & P. S. 347, 351 (1959).

The exact pharmacological attributes of the drug used on Petitioner by the police doctor is an important circumstance surrounding the statements taken from Petitioner and used to obtain his conviction. While it is true that this Court has said that ". . . time and again we have refused to consider disputed facts when determining the issue of coercion . . ." *Thomas* v. *Arizona*, 356 US 390, 402, it is also true that because of the delicate nature of the constitutional determination to be made in resolving the conflict between the fundamental interests of society in law enforcement and the constitutional rights of Petitioner, this Court will make its own examination of the record. *Spano* v. *People of the State of New York*, 360 US 315, 316.

In *Payne* v. *Arkansas* 356 US 560, 561-562, this court said:

> ". . . Enforcement of the criminal laws of the States rests principally with the state courts and generally their findings of fact, fairly made upon substantial and conflicting testimony as to the circumstances producing the contested confession—as distinguished from in-

> adequately supported findings or conclusions drawn from uncontroverted happenings—are not this court's concern; yet where the claim is that the prisoner's confession is the product of coercion we are bound to make our own examination of the record to determine whether the claim is meritorious. 'The performance of this duty cannot be foreclosed by the finding of a court, or the verdict of a jury, or both'. The question for our decision then is whether the confession was coerced. That question can be answered only by reviewing the circumstances under which the confession was made . . ."

We ask that this Court make its own examination of the state court records because the Court below made eight manifest errors in construing the state court proceedings:

1. The Court below concluded that ". . . On a hearing, a record of the entire proceeding in the Illinois court was produced and considered by the District Court. No other evidence was offered or received by that court . . ." 276 F 2d 324 at 325.

The fact is that in the District Court while Petitioner was contending that he should be granted a full hearing with the opportunity to put in evidence, the Respondents were insisting that the District Judge was confined to a reading of the state court records. The District Judge in his memorandum order denied Petitioner an opportunity to introduce evidence and said ". . . justice would not be served by ordering a full hearing or by awarding any or all of relief sought by the Petitioner. This court is satisfied upon the full record before it that the findings of the state court that challenged confession was freely and voluntarily given by Petitioner are correct, and that there has been no denial of federal due process of law. According,

this court is of the opinion the rule should be discharged and the Petitioner dismissed . . . " (Rec. F, See: Transcript of Proceedings of June 12, 1959, pages 2-31; 64; and Memorandum Order of June 24, 1959).

2. The Court below concluded that " . . . At 9:45 P.M. Dr. Clarence E. Mansfield, a police surgeon, came. He spoke to none of the investigating officers, . . . " 276 F 2d 324 at 326.

The fact is that when Dr. Clarence Mansfield came to the police station, he was directed to the room in which Petitioner was sitting. It was Officer Cagney who spoke with Dr. Mansfield and identified Petitioner as the man that he, Officer Cagney, wanted Dr. Mansfield to see (Rec. B, 212, 224).

3. The Court below in its opinion concluded that "Petitioner attended a public inquest conducted by the Coroner of Cook County, Illinois on Monday morning January 4, 1954 . . . " 276 F 2d 324 at 326.

As a matter of fact, the inquests were held in the afternoon, at 1:00 P.M., Monday, January 4, 1954 (See: Respondents' Additional Answer to Petition for Habeas Corpus, Exhibit A).

4. The Court below concluded that Petitioner was " . . . advised by the Coroner of his right not to testify, but chose to do so, was sworn and again confessed to the Boone murder." 276 F 2d 324 at 326.

The State court records show that when Petitioner appeared before the Coroner, he refused to testify. (Rec. B, 385; See: Respondents' Additional Answer to Petition for Habeas Corpus, page 5, Exhibit B, I, and T.)

5. The Court below concluded that when the State Criminal Court disposed of Petitioner's motion to suppress the confession, Dr. Mansfield and Dr. Harry R. Hoffman, licensed physicians, and 17 lay witnesses testified for the state; and Dr. Charles D. Proctor testified for Petitioner. 276 F 2d 324 at 326-327.

State court records, however, conclusively show that Dr. Hoffman did not testify on the motion to suppress the confession. Dr. Hoffman testified after the confession was admitted in evidence (Rec. D, 1155-1181).

6. The Court below said: "On habeas corpus, the District Court's inquiry is limited to a study of the undisputed portion of the record. *Thomas* v. *Arizona*, 356 US 390 . . ." 276 F 2d 324 at 329.

The fact is that this Court has never said that on habeas corpus the District Court's inquiry is limited to a study of the undisputed portions of the record. What this court has said is that when the case reaches the Supreme Court of the United States, the application of the federal constitutional doctrines shall be made on the undisputed portions of the record, referring to the undisputed facts. The duties and functions of the District Judge and District Courts under the federal habeas corpus statute have been the subject of a carefully considered opinion of this court in *Brown* v. *Allen*, 344 US 443 and the definitive and instructive opinion of Mr. Justice Frankfurter in *Daniels* v. *Allen*, 344 US 443, 488-531.

It is apparent that the Court below is in conflict with the 2nd Circuit in its opinion in *Rogers* v. *Richmond*, 252 F 2d 807, when the Court erroneously applied *Thomas* v. *State of Arizona* and misconstrued the definitive rules laid down by this court in *Brown* v. *Allen*, 344 US 443, 488-531 and *Rogers* v. *Richmond*, 357 US 220.

7. The Court below in its opinion found "Petitioner asked for treatment by a doctor to relieve a condition induced by his narcotics habit; . . ." 276 F 2d 324 at 330.

The state court records show, and it was not found otherwise by the state courts, that Petitioner did not ask for treatment. It is true that the Petitioner asked for a doctor. The treatment that was given to Petitioner was the doctor's idea, not that of the Petitioner. Indeed, (Rec. B, 215), the doctor himself says that when he got to where the patient was on January 1, 1954, he decided what drug to give based on his diagnosis (Rec. B, 213-215). The decision was the doctor's; not Petitioner's. In fact, the doctor himself describes the interesting episode when ". . . the man asked me to inject it in his wrist. I says 'No, you take it the way I will inject it, up here.' I injected it in his shoulder . . ." (Rec. B, 215). The record does not support the Court below in this important regard.

8. Finally, the Court below concluded that "At 11:15 Assistant States Attorney Janega came and questioned Petitioner. . . ." 276 F 2d 324 at 326.

As a matter of fact, the state court records show that the Assistant States Attorney arrived at the Second District at approximately 9:15 to 9:30 P.M. He resumed questioning Petitioner immediately after the doctor left, at about 10:05 P.M. (Rec. B, 446, 449). We now know that at 10:40 P.M. the Assistant States Attorney took one statement from Petitioner; and that the interrogation was continuous because, in rapid succession, a statement was taken at 10:45 P.M., one at 11:05 P.M., and one at 11:45 P.M. (See: Respondents' Additional Answer to Petition for Habeas Corpus, page 5).

These errors of the Court below are crucial because they deal with the totality of the circumstances surrounding the

statements taken from Petitioner. As a result, the Court below failed to discern that the state courts did not make a fair determination of Petitioner's federal constitutional claim. In this failure, the federal courts below, the District Court initially, and the Court of Appeals on review, did not discharge the responsibility vested in them by Congress in the federal habeas corpus statutes. *Daniels* v. *Allen*, 344 US 443, 506.

For example, highly material to the question presented was Petitioner's age and mental condition as well as the condition of his incarceration. *Fikes* v. *State of Alabama*, 352 US 191, 193, 197. Yet the undisputed fact that Petitioner was, at the crucial time, a 19 year old mental defective was callously overlooked by the Court below.

Leyra v. *Denno*, 347 US 556 is clear authority in support of Petitioner's contention that he was denied due process by the admission in evidence of the statement taken from him while he was under the influence of a police injected drug. There, as in this case, the Petitioner was subjected to intermittent and intensive police questioning; and the evidence against him consisted mainly of several alleged confessions made to a state-employed psychiatrist. In *Leyra*, as in the case at bar, there was the subtle interplay of the doctor and the police. This Court held that under the circumstances, the confession taken and admitted in evidence in the state trial resulted in denial of due process.

The similarity between *Leyra* and the case at bar is revealed when this Court said: "'. . . the undisputed facts in this case are irreconcilable with petitioner's mental freedom 'to confess to or deny a suspected participation in crime' . . . the confession petitioner began making was filled in and perfected by additional statements given in rapid succession to a police officer, a trusted friend, and two state prosecutors. We hold that the use of confessions

extracted in such a manner from a lone defendant unprotected by counsel is not consistent with due process of law as required by our Constitution." *Leyra* v. *Denno*, 347 US 556 at 561.

For this Court it is unnecessary to review the myriad of devices by which the human will can be subdued in the course of an unconstitutional inquisition. Before this court have come pure brutality, *Brown* v. *Mississippi*, 297 US 278; revolting violence, *Rochin* v. *California*, 342 US 165; misleading lies, *Spano* v. *State of New York*, 360 US 315; and domination of the mind by a dishonest psychiatrist employed by the prosecution, *Leyra* v. *Denno*, 347 US 556. The examples are never ending; and now Petitioner presents to this Court his case in which a police doctor subjected him to a drug injection because he wanted to "... quiet ..." Petitioner; he wanted to give Petitioner "... more of a psychic effect than reality ... By 'psychic effect' I mean pacify; it has an effect on the mind. ..." (Rec. B, 216).

Blackburn v. *Alabama*, 361 US 199 was the occasion in which Mr. Chief Justice Warren said: "The blood of the accused is not the only hallmark of an unconstitutional inquisition ..." And at the end of the last Term of this Court in *Reck* v. *Pate*, 367 US 433, said: "The question in each case is whether a defendant's will was overborne at the time he confessed. ... If so, the confession cannot be deemed the 'product of a rational intellect and a free will'. In resolving the issue all the circumstances that are attendant upon the confession must be taken into account."

All the circumstances, in Petitioner's case, include his mental defect, his 19 years with most of it as a social derelict, the overpowering domination of countless police and experienced police personnel aided by an experienced prose-

cutor. These are circumstances which impel the delicate constitutional determination that Petitioner was denied the due process of law by Illinois when it used a drug-influenced confession to obtain Petitioner's conviction and death sentence. *Culombe* v. *Connecticut*, 367 US 568; *Rogers* v. *Richmond*, 365 US 534.

Conclusion

For the reasons stated, it is respectfully submitted the judgment of the Court below should be reversed.

Respectfully submitted,

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Counsel for Petitioner

Appendix

1. Judicial decisions in which the description "truth serum" is used by the courts.

People v. *Hiveness*, 4 Ill. 2d 131, 122 N.E. 2d 231

State v. *Hudson*, 289 S.W. 920

Orange v. *Commonwealth*, 191 Va. 423, 61 S. E. 2d 267

People v. *Esposito*, 287 N.Y. 339, 39 N. E. 2d 925

Draper v. *Denno*, 113 F Supp. 290, aff'd, 205 F 2d 570 (2d Cir. 1953)

State v. *Cocklin*, 109 UT. 207, 194 Atl. 378

Lindsey v. *U.S.*, 237 F 2d 893 (9th Cir. 1956)

People v. *Ford*, 304 N.Y. 679, 107 N.E. 2d 595

Henderson v. *State*, 230 P 2d 495

People v. *McNichol*, 100 Cal. app. 2d 554, 224 P 2d 21

State v. *Lindmuth*, 56 N. M. 257, 243 P 2d 325

2. Learned treatises and articles in which the expression "truth serum" is accepted as accurate description of scopolamine or hyoscine.

Wigmore, *Evidence* 841a, 998 (3rd ed., 1940)

Silving, *Testing of the Unconscious In Criminal Cases*, 69 Harv. L. Rev. 683 (1956)

McDonald, *Use of Drugs in the Examination of Suspected Criminals*, 3 J. For. Med. 2 (1956)

Gagnieur, *Judicial Use of Psychonarcosis in France*, 40 J. Crim. Law 370 (1949)

Sargant, *Battle For The Mind* (1957)

Lindemann & Clarke, *Modifications in Ego Structure and Personality Reactions Under the Influence of the Effects of Drugs,* 108 Amer. J. Psychiatry 561 (1952)

Hanscomb, *Narco-Interrogation* 1 J. For. Science 37 (1956)

Dession, Freedman, Donnelly & Redlich, *Drug Induced Revelations and Criminal Investigations,* 62 Yale L. J. 315 (1953)

Redlich, Ravitz and Dession, *Narcoanalysis and Truth,* 107 Amer. J. Psychiatry 586 (1951)

Muehlberger, *Interrogation Under Drug Influence,* 42 J. Crim. Law 513 (1951)

Gerson & Victoroff, *Experimental Investigation Into the Validity of Confessions Obtained Under Sodium Amytal Narcosis,* 9 J. Clin. Psychotherapy 359 (1948)

Adatto, *Narcoanalysis As a Diagnostic Aid in Criminal Cases,* 8 J. Clin. Psychopathology 721 (1947)

De Ropp, *Drugs and the Mind* at 233, 234, 274, 275 (1957)

Underhill, *Criminal Evidence* 388 (5th ed. 1956)

House, *Use of Scopolamine in Criminology,* 18 Tex. St. Med. J. 259 (1922)

Lorenz, *Criminal Confessions under Narcosis,* 31 Wis. Med. J. 245 (1932)

Despres, *Legal Aspects of Drug Induced Statements,* 14 U. Chi. L. Rev. 601, 605 (1947)

Horsley, *Narco-Analysis* (1943)

Hanscom, *Narco-Interrogation,* 3 J. Forensic Med. 9 (1956)

Rolin, *Police Drugs* (1956)

MacDonald, *Truth Serum*, 46 J. Crim. L., C. & P.S. 259 (1955)

MacDonald, *The Use of Drugs in the Examination of Suspected Criminals*, 3 J. Forensic Med. 2 (1956)

House, *Why Truth Serum Should Be Made Legal*, 42 Med.-Leg. J. 138, 145 (1925)

Underhill, *Criminal Evidence*, Sec. 402 (5th Ed. 1956)

Annot. 45 A.L.R. 2d 1316 (1956)

Underhill, *Criminal Evidence* 141 (5th ed., 1956)

Annot. 23 A.L.R. 2d 1311 (1951)

McCormick, *Evidence*, Sec. 175 (1954)

Gagnieur, *Judicial Use of Psychonarcosis in France*, 40 J. Crim. L., C. & P.S. 370 (1949)

Herzog, *The Third Degree and Dr. House's Truth Serum*, 44 Med.-Leg. J. 34 (1927)

Gagnieur, *Judicial Use of Psychonarcosis in France*, 39 J. Crim. L., C. & P.S. 663 (1949)

Pearce and Clarke, *Value of Evidence Obtained Under the Influence of Drugs*, 24 Med.-Leg. J. 89 (1956)

Cens v. Heuyer; *Tribunal Correctionnel de la Seine*, Feb. 23, 1949 (1949) *Dalloz Jurisprudence* 284, (1950)

Donigan, *Chemical Tests and the Law* (1957)
Annot., 25 A.L.R. 2d 1407 (1952)

Truth Serum, 18 Tex. St. J. Med. 231 (1922)

Baker & Inbau, *Scientific Detection of Crime*, 177 Minn. L. Rev. 602 (1933)